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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/070,215	02/25/2002	Paul Schlossbauer	MTL-002	9404

7590 09/26/2003

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EXAMINER

REDMAN, JERRY E

ART UNIT PAPER NUMBER

3634

DATE MAILED: 09/26/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/070,215

Applicant(s)

SCHLOSSBAUER ET AL.

Examiner

Jerry Redman

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5. 6) ☐ Other: _____

The disclosure is objected to because of the following informalities: on page 2, lines 14, 15, and 17, on page 3, line 19, the applicant refers to claims within the specification, which is indefinite and objected to.

Appropriate correction is required.

Claims 1-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, line 2, the phraseology "and/or" is indefinite and fails to positively recite the claimed invention. In claim 1, lines 6-7, the phraseology "and having an inner shell, spaced from the outer shell and of one or more wall parts" is not readily understood by the Examiner. Specifically, what is meant by one or more wall parts? In claim 1, line 15, the phraseology "of the carrier parts and thereby supported" is not readily understood by the Examiner. What is being supported by what? In claim 3, line 5, the phraseology "which is in itself stable" is not readily understood by the Examiner. Specifically, what is meant by itself stable? In claim 6, line 3, the phraseology "in their closed position is not readily understood by the Examiner. What does "their" refer to? In claim 7, line 3, the phraseology "and/or" is indefinite and fails to positively recite the claimed invention. In claim 7, line 5, the phraseology "or" is indefinite and fails to positively recite the claimed invention. In claim 9, line 4, the phraseology "in one piece therewith" is not readily understood by the Examiner. Therewith what? Claims 10, 11, and 12 are not readily understood in their entirety. Exactly what is the applicant trying to claim? The applicant repeats a lot of the elements from claim 1 and therefore is not understood by the Examiner if there are

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more than one carrier frame, adjustment device, etc... . There is a lack of antecedent basis for the following: In claim 1, line 13, "the outer side"; In claim 3, line 3, "the ends"; In claim 4, line 4, "the outer vertical carrier parts", line 5, "the lower"; In claim 6, line 4, "the region"; In claim 7, line 6, "the limbs"; and In claim 8, line 3, "the wall part", and line 4, "the holder frame parts".

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:


A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

As best understood, claims 1-12 are further rejected under 35 U.S.C. 102(b) as being anticipated by Ashida et al. Ashida et al. disclose an adjustable facade shell (A) having an inner shell (1), an outer shell (4), an adjustment device (55) which pivotally moves panels (30) between an open and closed position, and carrier supports (portions extending beyond the frame for mounting within an opening of a building).

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. patent to Jordal discloses adjustable panels formed within a frame. U.S. patent to Alfred discloses adjustable panels formed within a frame.

Any inquiry concerning this communication should be directed to Jerry Redman at telephone number 703-308-2120.


Jerry Redman
Primary Examiner